

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6855**

**BILL NUMBER:** SB 238

**NOTE PREPARED:** Jan 3, 2010

**BILL AMENDED:**

**SUBJECT:** Public Depositories.

**FIRST AUTHOR:** Sen. Hershman

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

*Cities and Towns:* The bill provides that for the investment of public funds, the fiscal body of a city or town is considered the local board of finance. It provides that a city or town may deposit public funds only in a financial institution that is eligible to receive state funds and that has a principal office or branch within the territorial limits of the political subdivision.

*Meeting of Board of Finance:* It removes the discretion of a school corporation to determine if a board of finance meeting is needed on an annual basis.

*Investment in Indiana Local Government:* The bill permits local government investment officers to invest in municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana.

*Equity Securities Investment:* It eliminates the power of the Lawrenceburg Conservancy District and the Town of Danville in Hendricks County to invest in equity securities.

*Investment of Public Funds:* It removes the restriction of investing not more than 50% of a unit's depository funds in money market mutual funds. It also provides that a unit may not invest more than 50% of the unit's total public funds that are invested at any point in time in deposit accounts.

*Depository Placement:* It replaces the requirement that money be invested in transaction accounts and certificates of deposit with the depository quoting the highest interest rate with the authority to invest in a

depository offering any one of the top three interest rates so long as the reason for choosing the alternate depository is noted in the memorandum of quotes.

*Board for Depositories - Board Members and Procedure:* The bill requires that members of the Board for Depositories (Board) must have substantial expertise in commercial bank management in addition to lending. It also provides that two of the four Board members must be affiliated, or previously affiliated, with an Indiana financial institution with at least \$1.0 B in assets. The bill provides that a simple majority of the Board members voting is required to approve an action by the board instead of a unanimous vote. It changes the notice requirement for meeting notices from 10 days to 2 days.

It allows the Board to fix the assessment rate at the times the Board determines are necessary instead of twice each year, and it allows the Board to consider information in addition to any study by actuaries in establishing any change in the reserve for losses.

It increases the amount of anticipatory warrants the Board may issue to raise money for the insurance fund from \$1.5 M to \$5.0 M. It allows the Board to determine the amount and type of substituted securities a depository may provide to insure the insurance funds solvency. It also provides that the market value of the substituted securities as of the date of delivery may be less than, but not exceed, the amount determined by the board.

*Joint Investment Funds:* It repeals the power of the investing officers in two or more political subdivisions located within a county to establish a joint investment fund by entering into a written master agreement that defines the rights and obligations of the participating political subdivisions.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** *Board for Depositories:* The bill makes changes to the qualifications of the Governor's appointments to the Board for Depositories (Board) and to the procedures of the Board including the necessary number for approval of items and the reduction of amount of notice necessary before a meeting of the Board. None of these changes is expected to have fiscal impact.

*Background:* The Board consists of the Governor, the State Treasurer, the State Auditor, the Chairman of the Financial Institutions Commission, the Chief Examiner of the State Board of Accounts, and four members appointed by the Governor who are Indiana residents and have had substantial expertise in commercial lending with depositories. Under the bill, the appointed members have to have experience in commercial bank management and at least two of the appointees must be affiliated or previously affiliated with an Indiana financial institution with at least \$1 B in assets. These qualifications changes would affect appointments made after June 30, 2010.

**Explanation of State Revenues:** *Summary:* The bill will have indeterminate fiscal impact on state and local government concerning the rate of return and the amount of risk on money in funds controlled by the investing officer and available for investment. The bill has the potential to increase sources of investment for Indiana local projects by allowing investment in those projects and by allowing investing officers to accept a depository offering with the second or third highest rate of interest. Details of the changes follow:

*Investment in Indiana Local Government:* The bill increases the investment options for state and local government for funds that are held by a designated officer and available for investment, by including

municipal securities issued by an Indiana local governmental entity, quasi-governmental entity, municipal corporation, or special taxing district. The additional investment option could provide additional capital for state or local projects and potentially increase the risk and/or return for these investments. [Currently these funds may be invested in securities backed by the full faith and credit of the United States Treasury or securities fully backed by a federal agency or instrumentality, or a federal government sponsored enterprise.]

*Investment of Public Funds:* A state or local officer may invest more than 50% of the funds held by the officer and available for investing in certain money market mutual funds under the bill. However, the bill would prohibit an officer to invest more than 50% of the unit's total public funds at any one time in deposit accounts. The bill could change the make up of portfolio held by state or local government with indeterminate fiscal impact on the return and risk.

*Depository Placement:* Current law requires an investment officer to accept the bid of a depository that offers the highest rate of return for investment of funds in certificates of deposit. The bill allows the investment officer to place funds in a certificate of deposit with a depository quoting the second or third highest rate of interest and noting the reason for the placement. The rate of return would be diminished, but potentially local depositories could receive more deposits even if they are not paying the highest rate of interest available.

*Board for Depositories:* Other changes to the Board's procedure concerning the Public Deposit Insurance Fund (PDIF) have indeterminate fiscal impact.

The bill allows the Board to set the assessment rate to provide assets in the PDIF more than twice a year. However, there are no changes to a requirement that the rate may not change more than 2% in any six month period. The bill also increases the limit on anticipatory warrants issued by the Board to pay claims on the PDIF.

*Background:* The PDIF is maintained and operated by the Board and insures the deposits of all public money in Indiana depositories. The PDIF is funded by assessments payable by every depository that holds public funds. The PDIF assessment was suspended in 1985, but until that time it was a monthly fee not to exceed 2% of the sum of the minimum public fund balances that public funds depositories held during the month. As of June 30, 2009, the net assets of the PDIF totaled \$308,222,700.

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Local Investment Requirements:* The changes outlined above for investment in the *Explanation of State Revenues* concerning public funds are also made relative to investment of public funds by county treasurers or fiscal officers of political subdivisions.

*Equity Securities Investment:* The investment options for the Lawrenceburg Conservancy District and the Town of Danville would be limited to investment in municipal securities, rather than the additional option of investing in equity securities. This provision could reduce the return on investment and reduce investment risk.

**State Agencies Affected:** State Treasurer; Board for Depositories.

**Local Agencies Affected:** County treasurers and fiscal officers of political subdivisions.

**Information Sources:**

**Fiscal Analyst:** Jim Landers, 317-232-9869.